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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 9th July, 2013

\+ **ITA 141/2010**

COMMISSIONER OF INCOME TAX ..... Appellant
Through Ms. Suruchi Aggarwal, sr. standing counsel.

versus

SAMSUNG INDIA ELECTRONICS LTD. ..... Respondent
Through Mr.Satyen Sethi and Mr. Arta Tarana Panda, Advocates.

CORAM:
HON'BLE MR. JUSTICE SANJIV KHANNA
HON'BLE MR. JUSTICE SANJEEV SACHDEVA

SANJIV KHANNA, J. (ORAL)

This appeal by the Revenue, which pertains to the assessment year 1999-2000, raises three issues. The first issue relates to deletion of addition of Rs.1,20,07,908/- on account of defective stock written off. The issue is covered against the Revenue by the decision of this Court in ITA 98/2010 in the case of respondent-assessee. The High Court approved the decision taken by the tribunal and upheld the value of defective stock calculated at the realizable market value, which was lower than the cost. This method, it was observed, was constantly followed.

2. The second issue relates to the addition of Rs.1,20,07,928/- made by the Assessing Officer on account of defective stock which was adjusted while making computation under Section 115 JA of the Act on the ground that it was an unascertained liability. The CIT (Appeals), however, deleted the said addition. The tribunal dismissed the appeal of the Revenue observing that the aforesaid issue had been decided in favour of the assessee in the earlier years. The said finding recorded by the tribunal is incorrect as no addition to book profits for this reason was made under Section 115 JA in the earlier assessment years. However, we do not think that the aforesaid adjustment could be made while computing book profit under Section 115 JA. We have already upheld the order of the tribunal which has deleted the addition made by the Assessing Officer to the closing stock. We fail to understand how this adjustment can be made while computing book profits under Section 115JA as or on the ground that it was "provision for unascertained liability". Closing stock has to be valued at cost price or market price, if it is lower than the cost price. This is not a liability in the books. Thus, it cannot be considered to be contingent or unascertained liability. The book profits cannot be enhanced/increased on the ground that a part of the closing stock has been valued at market price and not at cost

price.

3. The last issue pertains to the training expenses of Rs.14,41,947/-. The Assessing Officer disallowed the same observing that it should be amortized over a period of six years. CIT (Appeals) deleted the said disallowance, observing that it was a revenue expense and the expenditure was incurred on training of employees after the business was setup and production had commenced. The said finding has been upheld by the tribunal. It is not the case of the Revenue that the business had not commenced in the assessment year 1998-99. The findings of the tribunal are correct.

4. In view of the above discussion, we do not think that any substantial question of law arises for consideration. The appeal is accordingly dismissed.

SANJIV KHANNA, J

SANJEEV SACHDEVA, J

JULY 09, 2013
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